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Congress of the United States
House of Representatives
Washington, DC 20515-0550

August 21, 2012

COMMITTEE ON
ENERGY AND COMMERCE
SUBCOMMITTEE ON
ENERGY AND POWER
SUBCOMMITTEE ON
COMMUNICATION AND TECHNOLOGY
SUBCOMMITTEE ON
OVERSIGHT AND INVESTIGATION
HOUSE REPUBLICAN
POLICY COMMITTEE
IMMIGRATION REFORM
CAUCUS, CHAIRMAN

The Honorable Julius Genachowski
Chairman
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Dear Chairman Genachowski:

The Communications Innovators Petition for Declaratory Ruling in CG Docket No. 02-278 was filed earlier this summer and I would like to inquire on its status. While I am not commenting specifically on the substance of the petition, I believe that it raises several interesting issues that merit consideration by the Federal Communications Commission.

As you know, Congress passed the Telephone Consumer Protection Act (TCPA) to protect consumers from aggressive telemarketing practices, including the use of autodialing equipment to make unsolicited calls to random telephone numbers. As the Commission recognized for more than a decade, the TCPA was not intended to restrict businesses from placing informational and other non-telemarketing calls to their customers and account holders, including on their wireless telephones. Nor did Congress intend to restrict the use of technologies such as predictive dialers – innovative equipment that dials specifically programmed contact numbers and enables company representatives to provide important, timely informational calls to consumers accurately, efficiently, and cost-effectively.

Unfortunately, the FCC decided in 2003 that some predictive dialers fall within the TCPA's definition of an autodialer and are subject to the same restrictions as the autodialing equipment used by telemarketers. It failed to explain, however, what specific types of predictive dialing technologies are considered autodialers. With this decision, the FCC created confusion that is harming both consumers and businesses.

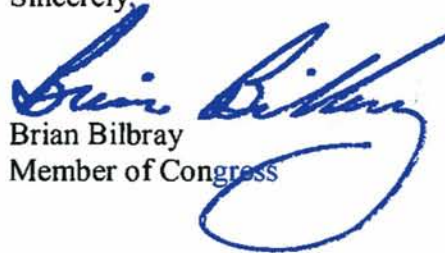
Predictive dialers are used today by many businesses to place non-telemarketing informational calls and provide critical, time-sensitive information to consumers. They are accurate and efficient devices that enhance compliance capabilities, eliminate human error, and maximize live

representatives' productivity. They restrict calls to certain numbers, to certain individuals, at certain hours, and to a certain number of calls, thus ensuring compliance with the myriad of state and federal laws and regulations that govern companies' contacts with consumers.

We need to do everything that we can to promote American innovation and job growth. The FCC's prior predictive dialer decisions seem to unnecessarily constrain innovative technologies and burden U.S. businesses. I would like to encourage the FCC to take the opportunity to clear up any confusion there may be surrounding the legitimate use of autodialers, while at the same time taking the opportunity to promote innovation.

I look forward to learning the status of the Communication Innovators petition and thank you for your consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read "Brian Bilbray", with a large, stylized flourish extending from the end of the signature.

Brian Bilbray
Member of Congress



FEDERAL COMMUNICATIONS COMMISSION

December 26, 2012

JULIUS GENACHOWSKI
CHAIRMAN

The Honorable Brian P. Bilbray
U.S. House of Representatives
2410 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Bilbray:

Thank you for your letter regarding the Petition for Declaratory Ruling (Petition) filed with the Federal Communications Commission (Commission) by Communication Innovators on June 7, 2012. The Petition requests the Commission to clarify its rules and orders interpreting the definition of "automatic telephone dialing system" as used in the Telephone Consumer Protection Act (TCPA), which is codified at 47 U.S.C. § 227. In your letter, you inquire about the status of the Petition and urge that we take action to address the issues raised in it.

A Public Notice seeking comment on the Petition was released October 16, 2012 with comments due on November 15, 2012 and reply comments due on November 30, 2012. For your convenience, I have enclosed a copy. I appreciate your interest in this important matter. Please let me know if I can be of any further assistance.

Sincerely,

A handwritten signature in black ink, appearing to be "J. Genachowski", is written over the printed name.

Julius Genachowski

Enclosure